

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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CLEARWATER HOLDING CORPORATION d/b/a
CLEARWATER BEACH CLUB,

CIVIL ACTION NO.:

Plaintiff(s)

-against-

LANDMARK AMERICAN INSURANCE
COMPANY.

Defendant(s)

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NOTICE OF PETITION FOR REMOVAL

Pursuant to 28 U.S.C. § 1332, § 1441, and 1446 Defendant LANDMARK AMERICAN INSURANCE COMPANY ("Defendant" or "LANDMARK") gives notice of removal of the above captioned action, Index Number 605174/2014, pending in the Supreme Court of the State of New York, County of Nassau, and hereby removes this action to the United States District Court for the Eastern District of New York. In support of this Notice of Removal, LANDMARK provides as follows:

1. On or about October 3, 2014, Plaintiff CLEARWATER BEACH CLUB ("Plaintiff") filed a Summons and Complaint bearing Index Number 605174/2014 in the Supreme Court of the State of New York, County of Nassau.
2. LANDMARK received Plaintiff's Summons and Complaint from the Insurance Department of the State of New York on or about November 13, 2014.
3. The United States District Court for the Eastern District of New York is the Court embracing the place wherein such action is pending in state court.
4. This removal is effected and has been timely filed within one (1) year after

commencement of the action and within thirty (30) days after LANDMARK received Plaintiff's Summons and Verified Complaint.

5. This Court has jurisdiction over this matter and it is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.
6. Pursuant to 28 U.S.C. § 1446 (a), a copy of all pleadings filed in the record of the state court action are attached hereto as Exhibit "A."
7. This action is properly removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441, in that all properly joined and served parties are of diverse citizenship and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

Diversity of Citizenship

8. Plaintiff CLEARWATER BEACH CLUB is alleged to be a "domestic corporation, organized and existing under and by virtue of the laws of the State of New York." *Plaintiff's Complaint at ¶ 1.*
9. Defendant LANDMARK AMERICAN INSURANCE COMPANY is incorporated under the laws of the State of Oklahoma and maintains a principle place of business in Atlanta, Georgia.

Amount in Controversy


10. The amount in controversy exceeds \$75,000.00, exclusive of costs and interest.
11. Plaintiff alleges that LANDMARK issued an insurance policy to The CLEARWATER BEACH CLUB, bearing policy number LHD376218 for the period of May 1, 2012 through May 1, 2013 (the "LANDMARK Policy"). *Plaintiff's Complaint at ¶ 5.*
12. Plaintiff alleges that LANDMARK failed to compensate Plaintiff under the terms and conditions of the LANDMARK Policy in the amount of \$1,278,127.64. *Plaintiff's*

Complaint at ¶ 15.

13. Pursuant to 28 U.S.C. § 1446(d), Plaintiffs are being provided with a copy of this Notice of Removal and a copy of this Notice of Removal is being filed with the Clerk of the Supreme Court of the State of New York, County of Nassau.
14. Pursuant to Rule 11 of the Federal Rules of Civil Procedure, undersigned counsel hereby certify that they have read the foregoing Notice of Removal, that to the best of their knowledge, information, and belief formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose.
15. By filing this Notice of Removal, LANDMARK does not waive, and hereby reserves all defenses and objections to Plaintiff's Summons and Complaint including, but not limited to, failure to state a claim, lack of personal jurisdiction, improper venue and/or insufficiency of service of process.

WHEREFORE, Defendant LANDMARK AMERICAN INSURANCE COMPANY respectfully requests that this Court assume full jurisdiction over the cause herein as provided by law. This Court has jurisdiction over the dispute because all properly joined parties are completely diverse and the jurisdictional amount has been met.

Respectfully Submitted,



Eric Krejci, Esq.

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Attorneys for Defendant

*LANDMARK AMERICAN INSURANCE
COMPANY*